



SCHIFFSSICHERHEITSABTEILUNG

International Safety Management (ISM)

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To: All owners and operators of German ships

subject: Information to the ILO Maritime Labour Convention 2006 (MLC)

General

The Maritime Labour Convention (MLC) 2006 was adopted on the 23.02.2006 by ILO after five years negotiation without any vote against. The MLC (a kind of civil right catalogue) consolidates more than 60 existing conventions and recommendations from the ILO.

The objective of the convention is to set out minimum international standards of working and living conditions of seafarers and also to ensure consistent contest conditions in the shipping industry.

Application

MLC basically applies to all seafarers as well as for all ships, whether in public or private property, normally engaged in commercial activities, except:

- fishing vessels
- traditional ships
- warships or naval auxiliaries

Structure of the MLC

The MLC consists of 3 different but related parts: the articles, the regulations and the code. The articles and regulations set out the core rights and principles and also the basic obligations of the member state. The code contains details for implementation of the regulations. It contains part A (mandatory standards) and part B (non-mandatory guidelines). The regulations and the code are structured in following 5 titles:

- Title 1. Minimum requirements for seafarers to work on a ship
- Title 2. Conditions of employment
- Title 3. Accommodation, recreational facilities, food and catering
- Title 4. Health protection, medical care, welfare and social security protection
- Title 5. Compliance and enforcement

Like other international Conventions, e.g. SOLAS or MARPOL, the requirements of the MLC will not be applied directly. Every member state has to implement the mandatory regulations and part A of the code by its national legislation having duly considered the guidance given by part B of the code.

Entry into force

The Convention comes into force 12 months after the date on which there have been registered ratifications by at least 30 member states with a total share in the world gross tonnage of ships of 33 per cent. At the moment can be assumed that the Convention becomes mandatory not later than 01.01.2012.

Implementation

On ships under German flag most of the working and living conditions for seafarers which are required by MLC are already ensured because of the existing Social- and Labour Protection Act in Germany. In the context of the current implementation of the MLC an new "Seearbeitsgesetz" will be developed, which will regulate in the future the conditions for seafarers on board and the obligations to shipping companies of German ships instead of the Seemannsgesetz. This new law contains the major requirements of the Convention and necessary regulations of the actual Seemannsgesetz. At the same time existing regulations will be adapted to the requirements of the Convention, for example: KrankenfürsorgeVO, SeemannsamtVO, WohnraumVO, Seedi- ensttauglichkeitsVO.

The fundamental responsibility for the inspection and certification of maritime labour conditions belongs to the flag state. Contact person for ships under German flag is the ship safety division of the See- Berufsgenossenschaft.

When implementing MLC, the competent authority may delegate some aspects of the inspection system to recognized organizations, however, the competent authority remains fully responsible for the inspection and certification of the working and living conditions on ships that fly its flag.

At first the conclusion of the national implementation process remains to be seen. When the new regulations come into force in Germany, a sufficient interim period will be considered as necessary to adapt to the new requirements.

Inspection and certification

All ships covered by MLC, 2006, are subject to regular inspections of the working and living conditions for seafarers. Ships of 500 GT and over that are engaged in international voyages have to prove, in addition, by a Maritime Labour Certificate and a Declaration of Maritime Labour Compliance (DMLC) that they comply with the requirements of MLC, 2006. Ships that are not certified are subject to inspections, at intervals not exceeding three years.

The inspection intervals for the Maritime Labour Certificate are similar to the ISM code:

- Inspection for the issuance of a interim certificate for a period of max. 6 month
- Initial inspection for the issuance of a full term certificate for a period of max. 5 years
- Intermediate inspection between the second and third anniversary date of the certificate
- Renewal inspection within 3 month before the expiry of the existing certificate

Remark:

Ships that fly the flag of any state that has not ratified MLC, 2006 do not receive more favourable treatment during Port State Control than ships that fly the flag of a member state (no more favourable treatment clause).

The Declaration of Maritime Labour Compliance consists of two parts and has to be attached to the Maritime Labour Certificate.

Part I shall be drawn up by the competent authority and identifies at first the working and living conditions which have to be inspected before a Maritime Labour Certificate is issued or renewed, and secondly, it contains the national requirements and regulations implementing the MLC, 2006.

Part II of the declaration shall be drawn up by the shipowner and shall identify measures and procedures to ensure ongoing compliance with the requirements, and should, in particular, contain the following information:

- the occasions on which ongoing compliance will be verified
- the persons responsible for verification
- the records to be taken
- the procedures to be followed where non-compliance is noted

Part II of the declaration may have different forms, for example – it could make reference to the procedures of the company's Safety Management System and in this way certain synergy effects can be used.

The following working and living conditions are part of the Declaration of Maritime Labour Compliance and so they have to be verified before issuing a Maritime Labour Certificate and certified by part I and part II of the declaration.

Regulation 1.1 - Minimum Age

- work prohibition for persons younger than 16 years
- prohibition of night work for seafarers younger than 18 years
- prohibition of dangerous work for seafarer younger than 18 years

Regulation 1.2 – Medical certificate

- medical fitness of seafarers
- medical certificates

Regulation 1.3 – Training and qualifications

- training and certificates for seafarers
- training for personal safety on board ship

Regulation 1.4 – Recruitment and placement

- access to an efficient and well regulated recruitment and placement system
- public and private recruitment services in MLC – member states
- measures by the company using recruitment services in states which are not party of MLC, 2006

Regulation 2.1 – Seafarers employment agreements

- fair employment agreements for seafarers
- form of agreements
- records of employment for seafarers

Regulation 2.2 – Wages

- payment of wages
- monthly payment

Regulation 2.3 – Hours of work and hours of rest

- maximum hours of work and minimum hours of rest
- records of work
- table of shipboard working arrangements

Regulation 2.7 – Manning levels

- sufficient personnel for the safe, efficient and secure operation of the ship
- manning according to the minimum safe manning document

Regulation 3.1 – Accommodation and recreational facilities

- decent accommodation and recreational facilities for seafarers
- minimum standards
- frequent and documented inspections and maintenance of these facilities

Regulation 3.2 – Food and catering

- quality of food and drinking water
- food free of charge
- qualification and minimum age of the ship's cook
- frequent and documented inspections of food, drinking water and catering facilities by the crew

Regulation 4.1 – Medical care on board ship and ashore

- health protection of seafarers
- medical care free of charge on board and ashore
- requirements regarding medical chest, medical equipment and hospital
- responsible person or doctor for medical care on board

Regulation 4.3 – Health and safety protection and accident prevention

- management systems for occupational safety and health on board and prevention of occupational disease
- risk management
- training of seafarers
- safety representatives and ship safety committee

Regulation 5.1.5 – On- board complaint procedures

- procedures for a fair, effective and quick handling of complaints on board

Attention: The requirements for accommodation and recreational facilities mentioned in regulation 3.1 and standard A3.1 apply only to ships constructed on or after the date when the Convention comes into force. For ships constructed before that date, the requirements that were applicable prior to that date shall continue to apply. A ship shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction.

Other regulations

The following list contains other conditions which have to be implemented by the flag state and which are direct or indirect subject to the regular inspections.

These regulations are not part of the Declaration of Maritime Labour Compliance and so they need not to be certified.

Regulation 2.4. – Entitlement to leave

- minimum norms for paid annual leave
- right of shore leave

Regulation 2.5 – Repatriation

- right of repatriation, at no cost

Regulation 2.6 – Seafarer compensation for the ships loss or foundering

- entitlement to adequate compensation in the case of loss or unemployment arising from a ship's loss or foundering

Regulation 2.8 – Career and skill development and opportunities for seafarers' employment

- promotion of career and skill development

Regulation 4.2 – Shipowner's liability

- protection against financial consequences like illness, damage or death related to the work on board

Regulation 4.4 – Access to shore-based welfare facilities

- access to shore-based facilities and services to secure health and wellness

Regulation 4.5 – Social security

- access to social security systems

The further implementation process

To ensure a timely and smoothly implementation of the requirements from the MLC, the See-BG keeps owners and operators of ships under German flag informed about the further ratification process. In addition, the See- BG will train own MLC inspectors and will develop suitable instructions that will be announced to inspectors and companies. The aim is to prepare the shipping companies adequately for the coming challenges and ensure an early certification of ships with 500 GT or more engaged in international voyages.

Further information concerning the MLC can be found on our homepage:

<http://www.see-bg.de/schiffssicherheit/mlc/>

For questions about MLC please contact the following e-mail: mlc@see-bg.de

Ship Safety Division